

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DEXTER GATBONTON,

Petitioner,

vs.

JANET NAPOLITANO, *et al.*

Respondents.

2:12-cv-01897-JCM-CWH

ORDER

This represented immigration habeas matter under 28 U.S.C. § 2241 comes before the court for initial review under 28 U.S.C. § 2243.

In two previous cases: Nos. 2:12-cv-01439-JCM-CWH and 2:12-cv-01858-MMD-PAL, the court dismissed petitions brought by petitioner without prejudice that presented essentially the same matter to the court as the current action. While the papers contained a number of deficiencies, the court dismissed the first prior action after petitioner failed to amend the petition to name his immediate custodian as a respondent after being given an opportunity to do so and also dismissed the second prior action for failure to name petitioner's immediate custodian as a respondent.

Once again in the current action, the petition does not name petitioner's immediate custodian as a respondent. Petitioner's counsel might consider whether it is beneficial to his client's interests to file the same defective papers in a third action and expect a different result. It is, yet again, a waste of time for all concerned, including this court.

This action therefore will be dismissed without prejudice. The court does so given that:
(a) petitioner failed to amend the first prior petition after being given an opportunity to do so and instead

1 sought to avoid the court's orders in the two prior cases by filing the same defective papers again in this
2 action; and (b) a new and properly commenced action will not be subject to a time-bar or other
3 preclusion given the nature of the underlying claims challenging petitioner's continued immigration
4 detention. As previously admonished, counsel should assume that similar efforts to circumvent the
5 court's rulings in the prior cases by filing the same papers in a new action will lead to the same
6 outcome.

7 **IT IS THEREFORE ORDERED** that this action shall be **DISMISSED without**
8 **prejudice.**

9 **IT IS FURTHER ORDERED** that the clerk of court shall enter final judgment
10 accordingly.

11 DATED: November 27, 2012.

12
13
14 
15 UNITED STATES DISTRICT JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28